

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL O'HARA,
Plaintiff

Civil Action No.

v.

THE VERTEX PHARMECEUTICAL
DISABILITY PLAN,

Defendant

COMPLAINT

INTRODUCTION

This is a lawsuit to recover disability insurance benefits under a Long Term Disability Plan sponsored by Vertex Pharmaceuticals, Inc.

PARTIES

1. The plaintiff, Michael O'Hara ("Michael") lived at 370 Congress Street, Boston, Massachusetts while working for Vertex Pharmaceuticals. He currently resides in Fishers, Indiana.

2. Michael was employed at all relevant times by Vertex Pharmaceuticals ("Vertex") which sponsored the Vertex Pharmaceuticals Disability (the "Plan"). Vertex has a primary business address at 50 Northern Avenue in Boston, Massachusetts. According to information provided to Michael, the Plan was fully insured and administered by the Reliance Standard Life Insurance Company.

JURISDICTION AND VENUE

3. Michael is currently an Indiana resident but at all time relevant to the onset of his disability claim in dispute, Michael lived in Massachusetts five days a week while he worked at Vertex.

4. Vertex has a significant business presence in Massachusetts and the Plan is located in Massachusetts. Vertex has a primary business address at 50 Northern Avenue in Boston, Massachusetts.

On information and belief, this Court has original jurisdiction for claims for benefits arising under 29 U.S.C. §1132.

FACTS

5. At all relevant times, Michael was an eligible participant in the Plan.

6. Michael's first day certified as disabled was March 17, 2018.

7. Michael's STD claim was approved by the Plan. His LTD claim was denied by The Plan

8. The Plan originally denied Michael's LTD claim under the LTD policy's pre-existing condition exclusion by letter dated July 17, 2018.

9. On July 30, 2018 Michael timely appealed the denial and the Plan subsequently withdrew their denial based on a pre-existing condition exclusion.

10. The Plan advanced a new reason for denying Michael's LTD claim by a letter dated October 10, 2018: he was not disabled. As part of its denial review, a medical reviewer for the Plan concluded, among other things, that Michael's cognitive functioning was "less than baseline."

11. In light of the Plan's advancing a new reason for denying Michael's claim, he asked for a new appeal which the Plan agreed to although they refused to give him 180 days from the date they decided to give him a new appeal to actually appeal.

12. Michael (through his counsel) also asked the Plan for guidance on any type of testing they would require in a neuropsychological evaluation. Michael advised the Plan of his

concern with the expense of a neuropsychological evaluation since it was not covered by his health insurance.

13. The Plan failed to provide any guidance to Michael by ignoring his request.

14. On April 7, 2019 Michael submitted his new appeal which contained new evidence of his disabling condition.

15. On July 24, 2019 the Plan denied Michael's second appeal. In the appeal denial letter the Plan conceded that: "In his prior job site and environment only does he appear to have problems. His psychiatric issues appear to be directly related to his previous job environment."

COUNT I

16. Michael realleges paragraphs 1 through 15 and incorporates the same by reference as if fully set forth herein.

17. The Vertex disability plan violated Michael's right to a full and fair review promised under ERISA.

18. The plan's denial of Michael's long term disability claim and appeal was arbitrary and was inconsistent with the terms of the Plan.

19. As a result of the plan's refusal and failure to pay Michael LTD benefits, Michael is entitled to recover benefits and to enforce his rights under the plan.

WHEREFORE, the Plaintiff, Michael O'Hara demands relief and judgment against the Defendant Plan as follows:

1. Injunctive relief declaring the rights, duties and remedies of the parties regarding his claim for benefits under the long term disability plan.

2. An amount of damages to be determined by this Court, plus pre-judgment interest, post-judgment interest, costs and reasonable attorneys' fees allowed by statute or otherwise.

Respectfully submitted for the Plaintiff,

MICHAEL O'HARA

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